

N E W S L I N E

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Report on Workers' Comp Reforms of SB 863 Shows Progress, Challenges in Enacting Law's Wide-ranging Changes

The Department of Industrial Relations and its Division of Workers' Compensation posted a progress report today on the department's implementation of Senate Bill 863, the 2012 law which makes wide-ranging changes to California's workers' compensation system.

The report, "[SB 863: Assessment of Workers' Compensation Reforms](#)," describes improvements made as well as the challenges remaining to fulfill the law's intent to improve benefits to injured employees while containing costs. SB 863 became law on Jan. 1, 2013, but not all provisions were effective immediately, and some aspects are still going through the rulemaking process. The Division of Workers' Compensation (DWC), a division of DIR, is implementing the reforms and working with stakeholders to navigate the changes in the law.

"Senate Bill 863 was the result of the Governor, employers and workers agreeing on reforms to address persistent problems that delayed care to workers and increased costs to business," said Labor Secretary David Lanier. "While we still have work to do, I am pleased with the steps DIR is taking to implement the reforms."

"DIR took a balanced approach to putting SB 863's reforms into practice," added DIR Director Christine Baker. "The priority was to increase the benefits in 2013, reduce frictional costs and implement the cost savings efficiencies through regulations, a process that started as soon as the law was signed. We have laid the groundwork for the next stage of improvements and expect more gains in the years ahead."

Key findings of the report include:

- Although SB 863 successfully trimmed three percentage points off the rate increase, employers still had to endure an increase of more than 10% in their workers' compensation costs. Insurance prices had already begun to rise in 2012. After SB 863 was passed, the Department of Insurance adopted an advisory pure premium rate for Jan. 1, 2013, which was up 11.3% from the rate one year earlier. If SB 863 had not been enacted, indications are that the rates would have increased by 14.3%.

- Permanent disability benefits increases are now in effect. It is too soon to determine the net effects, primarily because it takes up to two years or more for permanent disability to be determined.
- SB 863 strengthened California's self-insurance marketplace, thanks to the greater oversight authority provided to DIR's Office of Self Insurance Plans over self-insured employers. The reforms lowered the rate of defaults thereby reducing costs to all remaining self-insurers. To date, no defaults have occurred in self-insured entities since SB 863 regulatory changes went into effect.
- SB 863 reduced ambulatory surgery center (ASC) facility fees from 120% to 80% of Medicare's hospital outpatient fee schedule. The average amount paid per ASC episode in the first six months after the change in fee schedules was 26% lower than in the year before the change took effect.
- SB 863 amended the inpatient fee schedule by repealing the separate reimbursement for spinal hardware. The average amount paid per episode of the spinal surgery involving implantable hardware declined by 56% after the separate reimbursement (duplicate payment) for spinal hardware was repealed.
- The lien filing fee halved the number of new liens being filed. In the first year the filing fee was in effect, 213,092 liens were filed, down from 469,190 in 2011, a greater than 50% reduction. This represents a cost savings of an estimated \$270 million per year in litigation costs to California employers and insurers.
- Medical costs appear to be down: Preliminary data from WCIRB indicate that the estimated ultimate medical loss per lost-time claim is down 1.3% from calendar year 2012 to 2013. However, because the estimate is based on historical trends and adjusters' predictions of what their cases will cost over the lifetime of the case, it is a weak performance indicator of the workers' compensation system after the extensive reforms brought about by SB 863.
- The Independent Medical Review (IMR) process is heavily used: approximately 185,000 IMR applications have been filed to date. The qualified medical evaluator (QME) process that IMR replaces costs on average \$1,653 per QME request, at least three times higher than the administrative cost of an IMR. An IMR costs \$420 to process, down from \$560 initially, and the cost will go down further starting in 2015.
- Ten sets of cost-saving regulations have been enacted, and additional regulations are in process.
- More than 80 percent of IMR determinations uphold the utilization review (UR) finding that the treatment requested is not medically necessary. Pharmaceuticals are the most common IMR request, and narcotics are the most common type of pharmaceutical requested.

"One of the key improvements of the reforms was to improve the delivery of appropriate medical care to injured workers through an independent medical review process that is

transparent and consistent and uses evidence-based medicine,” said Dr. Rupali Das, DWC Medical Director.

It is still too early to gauge the overall effect of SB 863 reforms. Revisions to the lien filing procedures, as well as the conflict of interest statute and the fee schedule changes, are expected to help reduce fraudulent behavior in the workers’ comp system.

The progress report is posted on the DIR [website](#).

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